



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/18/2024

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January 17, 2024

BY ECF

Honorable Analisa Torres
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Gabino Genao v. City of New York, et al.,
21-CV-00301 (AT) (VF)

Your Honor:

I am an Assistant Corporation counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the above-referenced matter. Defendants City, Brann, McCarthy, Cohall, Moise, Harvey, Nwosu, and Freemantle write to respectfully request a twenty-one (21) day extension of time, from January 18, 2024 until February 8, 2024 to file any objections to the Court's January 4, 2024 Report and Recommendation. See Docket Entry No. 124. This is the first request of its kind. Due to plaintiff's incarceration status, defendants were unable to ascertain plaintiff's position regarding this request prior to the submission of this letter.

By way of background, *pro se* plaintiff alleges, *inter alia*, that on or about December 16, 2020, officers arbitrarily sprayed him with a fire extinguisher and OC spray, subjecting him to excessive force. See Docket Entry No. 2. On May 8, 2023, defendants moved for summary judgement. See Docket Entry Nos. 95 – 98. On October 18, 2023, plaintiff opposed defendants' motion for summary judgement, and on November 20, 2023, defendants replied to plaintiff's opposition. See Docket Entry Nos. 117 and 121.

On January 4, 2024, the Court issued a Report and Recommendation, both granting and denying defendants' summary judgment motion. See Docket Entry No. 124. Pursuant to that Order, the Court advised the parties that they have fourteen days to file any objections to the Report and Recommendation pursuant to Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1). Id. Defendants sincerely apologize to the Court for requesting this

instant letter extension outside the designated forty-eight hours prior to the original deadline. The undersigned was recently transferred this matter on December 12, 2023 and defendants respectfully require additional time to review the Court's issued Report and Recommendation, and determine if they have grounds to state any objections.

Accordingly, defendants respectfully request a twenty-one (21) day extension of time, from January 18, 2024 until February 8, 2024 to file any objections to the Court's January 4, 2024 Report and Recommendation.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Eun Jee (Esther) Kim

Eun Jee (Esther) Kim

Assistant Corporation Counsel

Special Federal Litigation Division

cc: **BY FIRST CLASS MAIL**

Gabino Genao

Plaintiff pro se

DIN 22B1480

Green Haven Correctional Facility

594 Rt. 216

Stormville, NY 12582

GRANTED IN PART. By **February 1, 2024**, the parties shall file any objections to the Report and Recommendation.

SO ORDERED.

Dated: January 18, 2024
New York, New York



ANALISA TORRES
United States District Judge